

Remarks

Claims 1-9 are currently pending in the application.

The drawings stand objected to for a variety of reasons. It respectfully submitted that the amendments to the drawings described above and shown in red on the accompanying copies of the drawings overcome all of the Examiner's objections.

As to the drawings failure to support the subject matter of claims 3 and 5, it is respectfully submitted that the addition of new Figure 6, showing a solid upper surface having the pattern shown in Figure 1 formed in the lower surface of the orthotic device of the present invention supports these claims without the addition of new matter.

Claims 1-9 stand objected to under 35 U.S.C. 112, second paragraph. More specifically, claims 1, 3, 4, 5 and 8 stand objected to for the use of a variety of terms that are alleged to be indefinite. It is respectfully submitted that the foregoing amendments to the claims remove all of the objected to terms and clarify the claims adequately. As to the use of the term "a depressable portion or interdigitated portion" in claim 1, Applicant is unable to find this language in claim 1 as filed. As to the Examiner's objection to the language in claim 8, it is respectfully submitted that the change of the language from "said lower surface" to "said base" overcomes this objection.

In regard to the failure to number the pages of the application, a complete new copy of the application including all of the foregoing amendments and numbered pages is being submitted herewith.

Claims 1, 3 and 4-9 stand rejected under 35 U.S.C. 102(b) as anticipated by U.S. Patent No. 3,999,558 to Barnwell et al. It is respectfully submitted that the structure of Barnwell et al is inherently different than that of the present application. Barnwell et al describe the incorporation of “continuous ribs” that are connected to the main body of the orthopedic shoe plate at both ends thereof. This is in contradistinction to the structure of the present invention that describes and claims “interdigitated fingers or prongs” that are attached to the main body of the orthotic at one end, the base end, but are free to flex at their distal ends. While the structure of Barnwell et al may be similar to that of the present invention, it is clearly different and distinct and does not provide the level of energy recovery provided by the structure of the present invention. The restriction imposed by the attachment of the “ribs” of Barnwell et al at both ends thereof inherently restricts the amount of energy that can be stored on the users “downstroke” and returned to the user on the “upstroke” of the foot. Such a restriction clearly does not exist in the case of the structure of the instant invention. It is respectfully submitted that the “interdigitated portion” of the present invention is clearly and patentably distinct from the “ribbed portion” of Barnwell et al. Thus, it is respectfully submitted that rejection of the claims of the instant application as anticipated by Barnwell is improper and should be withdrawn.

Claims 1-5 and 8 stand rejected under 35 U.S.C. 102(b) as anticipated by U.S. Patent No. 5,311,680 to Comparetto. Comparetto describes a series of parallel fingers that extend longitudinally from the arch portion of an orthotic all of the way to the toe portion thereof. Thus, Comparetto is clearly distinguishable from the orthotic of the present invention that includes an interdigitated portion under the metatarsal-phalangeal area of the foot. To further point out this distinction, new claims 10-18 that specifically describe the radial display of the interdigitated prongs of the orthotic of the present invention are introduced. It is respectfully submitted that the term interdigitated as used, described and shown in the drawings of the instant application is clearly and unequivocally distinguishable and patentably distinct from the structure shown and described in Comparetto even without the new definition incorporated into new claims 10-18. It therefore respectfully submitted that rejection of the claims of the instant application over Comparetto is improper and should be withdrawn.

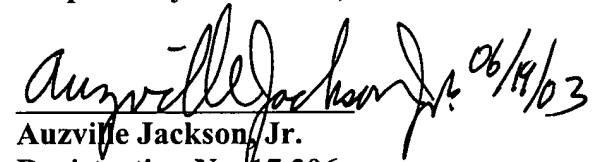
Claims 1-5, 8 and 9 stand rejected under 35 U.S.C. 102(b) as anticipated by U.S. Patent No. 1,496,994 to Mirizio. AS in the case of Barnwell et al, the structure of Mirizio provides a pair of longitudinal ribs or "flat springs" that are attached at both ends to the body of the arch support by means of rivets 14-15. This structure is again quite different from that of the instant application that describes an interdigitated portion that comprises interdigitated fingers or prongs, not continuous springs or ribs that are attached at both ends to the main body of the device. For the reasons expressed hereinabove in connection with Barnwell et al,

such a structure is clearly and patentably distinguishable from that of Mirizio.

Thus it is respectfully submitted that rejection of the claims of the instant application over Mirizio is improper and should be withdrawn.

In view of the foregoing amendments to the drawings, specification and claims and the remarks presented hereinabove, it is respectfully submitted that the application now stands in condition for allowance, and the same is most earnestly solicited at an early date.

Respectfully Submitted,


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FIG. 2

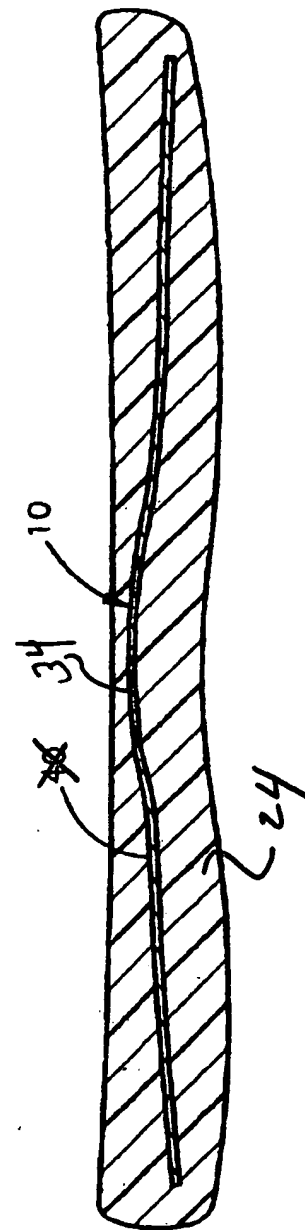
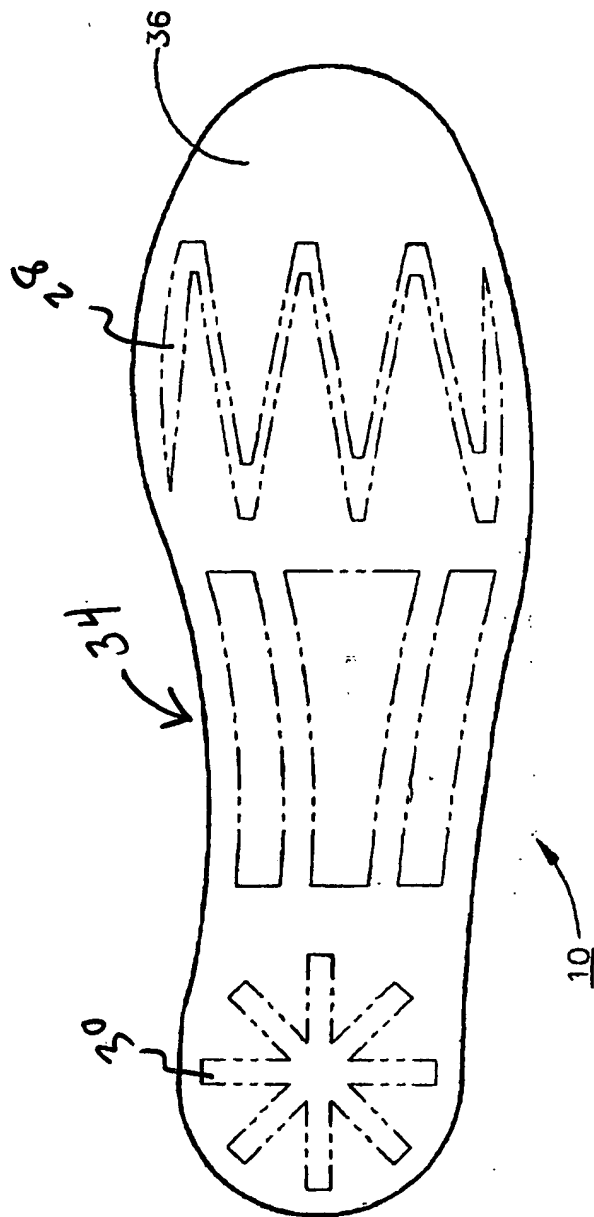


FIG. 3

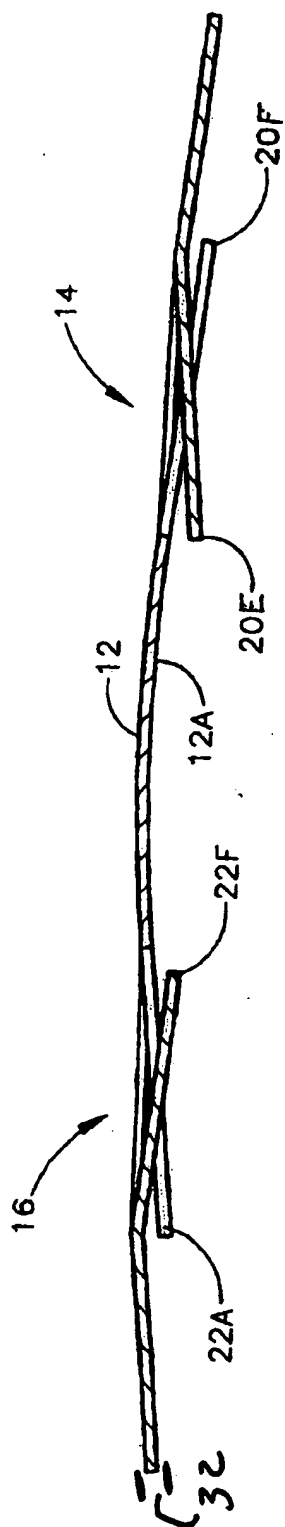


FIG. 4

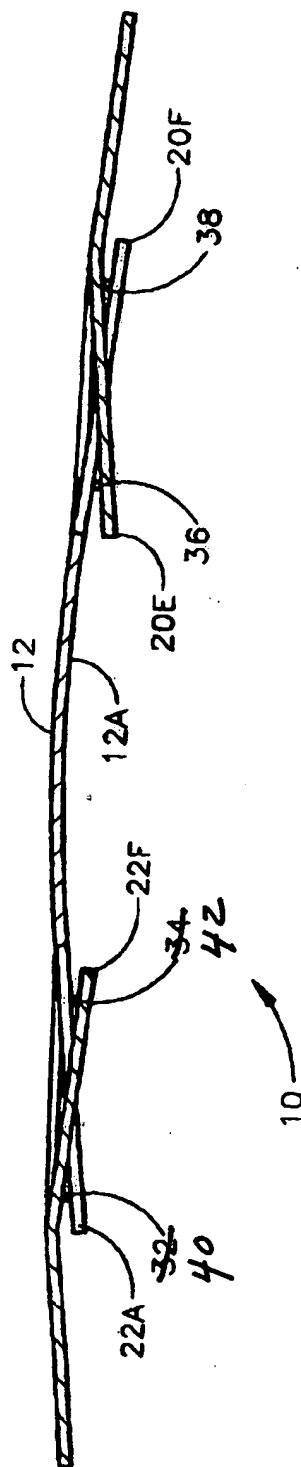


FIG. 5